



5 Milner Street,  
Hindmarsh SA 5007  
**Phone:** (08) 7127 4630  
**Email:** [ncssa@ncssa.asn.au](mailto:ncssa@ncssa.asn.au)  
**Website:** [www.ncssa.asn.au](http://www.ncssa.asn.au)  
**ABN:** 40 538 422 811  
GST registered

Submission to the Australian Panel of Experts on Environmental Law on draft Technical Papers for “The Future of Australian Environmental Laws”

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The Nature Conservation Society of South Australia (NCSSA) welcomes the opportunity to provide a submission on the draft Technical Papers and proposals for the future of Australia’s environmental laws. As South Australia’s primary nature conservation advocacy organisation, the NCSSA has an active interest in the protection and conservation of South Australia’s natural resources in particular nationally and state listed threatened plants, animals and ecological communities, management of protected areas and remnant native vegetation.

We appreciate the extensive research and collaborative thought that that has gone into preparing the draft environmental law reform proposals and technical papers. NCSSA is pleased to see prominent references to the challenge of addressing ongoing declines in biodiversity in the face of climate change and the impact of pest plants and animals throughout the Technical Papers.

We strongly support the urgent need for legislative reforms to provide greater protection for biodiversity and believe such reforms are necessary to assist in addressing ongoing declines in the condition and extent of native vegetation and biodiversity that have been reported in successive State of the Environment Reports over the past two decades. Fundamental changes need to be made to the way we conserve, protect and enhance what remains of our precious native vegetation and the biodiversity it contains if we are to maintain our economic, environmental, cultural and social wellbeing.

As pointed out in the Overview Paper, current environmental laws have evolved to address complex conservation and resource use issues and there is a need to modernise and integrate our legislation to facilitate a landscape approach to biodiversity conservation. Existing legislation fails to properly consider biodiversity protection and, in South Australia, does not even cover all biota with a number of taxonomic groups, such as native fish, invertebrates and fungi along with threatened ecological communities currently excluded from the legislative framework.

NCSSA acknowledge and support the statement on Pages 3-4 of the Overview Paper that “the complexities of ecological problems, especially those that are cumulative and incremental over long periods, are difficult to regulate” and that existing environmental laws, that appear sound on paper, are frequently not being effectively implemented and are often overridden by other considerations. Bearing all this in mind, we provide the following feedback on specific sections of the Technical Papers:

### **Technical Paper 3 – Terrestrial biodiversity conservation and natural resource management**

#### *Section 2.2 The need for biodiversity stewardship and resource management*

We recommend this section also refer to the 2016 State of the Environment Report (SoE) that clearly states that the risks faced by biodiversity in Australia today are much the same as in 2011. SoE 2011 also noted that many risks facing biodiversity in the short and medium term relate to potential failure to take advantage of current opportunities for better management. If anything, these risks have increased in 2016 because, although the impact of pressures overall has increased, the resources available for managing biodiversity, and undertaking research and monitoring have not.

#### *Section 2.3.1 Constitutional arrangements*

We recommend that the Australian Pest Animals Strategy is added to the list of strategies and policies on Page 11. We also recommend that this section refer to the Intergovernmental Agreement on Biosecurity that underpin Australia’s national biosecurity system.

#### *Section 3.4 Implementation deficits*

We strongly support the statements that “Laws and other governance arrangements are only as good as their implementation” and that “There are many deficiencies in the implementation of conservation and NRM law, resulting in the failure to achieve ecological and social outcomes”. We acknowledge that adequate resources are critical for implementation of such laws however also recommend that commitment to enforce them is often lacking or not followed through. For this reason, despite legislative

controls to prevent adverse impacts on biodiversity, many threatened species and ecological communities continue to decline due to human activity. We strongly recommend that current penalties need to be substantially increased and a wider range of compliance tools implemented across both the public and private sectors to prevent adverse impacts on threatened species, populations, ecological communities and their critical habitat.

We strongly support the comments in this section in relation to the NRS and the urgent need to fill the gaps in currently under-represented bioregions, climate change refugia and connectivity of habitat across the landscape. We also strongly support the need to ensure sufficient resources and capacity for indigenous communities who are expected to be the stewards of substantial areas of land within IPA's that are making an increasingly important contribution to the NRS.

#### *Section 4.1.2 Funding sustainability*

We strongly recommend that further emphasis be placed on the need for sufficient federal and state government funding for environmental purposes for the public good in the discussion of funding sustainability on pages 25-26. The fact that resources currently provided by both levels of government are quite inadequate to meet their responsibilities for protecting the environment in the public interest should also be reinforced.

#### *Section 4.2.1 Bioregional plans*

We strongly support the recommendation for a landscape-scale bioregional planning process led by the Commonwealth and drawing on Commonwealth powers, working collaboratively with the states, local government and communities. Although we acknowledge the multitude of issues that need to be addressed in designing such an approach, and the essential need for consultation, these factors should not be seen as a reason for delaying or postponing adoption of such an approach.

#### *Section 4.2.2 Completion of the National Reserve System (NRS)*

We strongly support the recommendation for completion of the NRS through application of a nationally consistent and transparent process and set of standards for IUCN categorisation and the auditing of management effectiveness. We also strongly support the proposal for the development of national legislation that strengthens protection for land within the NRS. We recommend that this section call for National Parks and other highly protected areas to be listed as Matters of National Environmental Significance (MNES) under the *EPBC Act* as a mechanism to improve the Commonwealth Government's ability to fulfil its national and international obligations to conserve biodiversity.

#### *Section 4.2.3 Effective monitoring, evaluation and reporting*

The need for effective monitoring, evaluation and reporting needs further emphasis in the first sentence. Rather than "many studies highlight....." we recommend that the wording is amended to "Studies in Australia and overseas have demonstrated that better information is essential for effective natural resource governance, to help manage environmental issues and to ensure transparent evaluation of the effectiveness of governance." We support the listed points of necessary improvements for monitoring, reporting and evaluation however recommend that the first point is expanded to include monitoring of the effectiveness of management as well as governance. Without such information, it is impossible to gain accurate measures of the status of biodiversity indicators or reliable tracking of trends in response to ongoing management and land use.

#### *Section 4.2.6 Funding for NRM governance*

We strongly support the need for a long-term investment strategy for Australia's environment that includes contributions from all levels of government and the private sector. We recommend that this section acknowledge the important and often undervalued contribution that the environment and ecosystem services provide for agricultural production, nature-based tourism, community amenity, health and wellbeing.

### **Technical Paper 4 – Marine and Coastal issues**

We strongly support the inclusion of a paper that specifically addresses marine and coastal issues given the importance of these areas to the conservation of biodiversity and increasing risk posed through inappropriate development and resource use. We commend the authors for drawing attention to the decline in biodiversity and ecosystem health of coastal and marine environments in the south-east of Australia. We recommend that the 4<sup>th</sup> paragraph in the Introduction acknowledge the importance of Australia's unique and diverse marine biodiversity to nature-based tourism with increasing income generated through activities such as shark-cage diving, swimming with marine mammals and whale watching.

#### *Section 2.1 Status, trends and threats*

We recommend that this section acknowledge the impact of the developing Beach-Cast Seagrass and Marine Algae Fishery on biodiversity including shorebirds of international, national and state conservation significance that rely on this resource for shelter, nesting and feeding.

*Section 4.3 Addressing gaps and weaknesses in the national system of marine protected areas*

We strongly support the recommendation for completion of the MPA's using CAR Principles with a strong focus on protection of underrepresented ecosystems in already heavily exploited or degraded areas. We also strongly support the proposal to develop national standards for effective MPA management across state/territory and national jurisdictions that accord with IUCN standards. We recommend that this section acknowledge the finding from the 2016 SoE Report that current reporting on the state and recent trends of Australia's marine environment is highly variable and often inadequate for robust assessment. As noted in the 2016 SoE Report there are few coordinated, sustained biological monitoring programs at both the regional and the national level for the marine environment, and most monitoring is restricted to fisheries assessments and short-term programs in localised regions. Further gaps in current monitoring and reporting include spatial and temporal variation in coverage, parameters measured, methods used and key indicators – all issues that need to be addressed in developing a national/cross-jurisdictional monitoring framework.

We would be happy to discuss any of the points raised in this submission with members of APEEL and can be contacted on (08) 7127 4633 or via email at [nicki.depreu@ncssa.asn.au](mailto:nicki.depreu@ncssa.asn.au)

Yours sincerely,



Nicki de Preu  
Conservation Ecologist  
Nature Conservation Society of South Australia